

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5732 of 1999

AND

SPECIAL CIVIL APPLICATION NO. 5738 OF 1999

AND

SPECIAL CIVIL APPLICATION NO. 5739 OF 1999

AND

SPECIAL CIVIL APPLICATION NO. 5741 OF 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgement?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

KETANKUMAR MANUBHAI PATEL

Versus

DIRECTOR OF PRIMARY EDUCATION

Appearance:

MR MUKESH R SHAH for Petitioners

MR HC PATEL for M/S PATEL ADVOCATES for Respondent.

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 18/08/1999

COMMON ORAL JUDGEMENT

In all these four petitions, the petitioners are desirous of seeking admission to the PTC Course. They are facing difficulty for such admission on the ground that as per their academic record, they have not completed the minimum age of 17 years. In Special Civil Applications Nos. 5738, 5739 and 5741 of 1999, the notice was issued on 4th August 1999 and it was also

ordered that the application of the petitioners for admission to the PTC Course shall not be rejected only on the ground that the petitioners have not completed the age of 17 years. However, in Special Civil Application No.5732 of 1999, only notice was issued because till then, the petitioner had not even applied for admission to the PTC Course. Learned Counsel for the petitioners has moved for an amendment in this Special Civil Application No.5732 of 1999 and has placed on record a copy of the letter dated 19th June 1990 addressed to the Director of Primary Education, by the Section Officer of the Education Department of the Govt. of Gujarat. The amendment as prayed for is granted.

2. Rule in each of these four Special Civil Applications. Mr.H.C.Patel waives the service of Rule on behalf of the Director of Primary Education.

3. Whereas all these four Special Civil Applications are based on identical facts and involve common question, the same are decided by this common judgment and order.

4. The petitioners herein have submitted that their date of birth as per the academic record is different than the one as has been certified by the concerned local authority (Gram Panchayat). It is the case of each of the petitioners that in case the date of birth as certified by the local authority, i.e. Panchayat, is taken into consideration, instead of what is recorded in their academic record of their first public examination, it will be found that they have already attained the age of 17 years and they all will be eligible for admission to the PTC Course. It has been further argued on behalf of the petitioners that in terms of the letter dated 19th June 1990 issued by the Education Department addressed to the Director of Primary Education, the date of birth as mentioned in the certificate issued by the local authority, i.e. Panchayat may be considered for the purpose of determining the age limit as against what is mentioned in the academic record in case the Director of Primary Education is satisfied that such date of birth as certified by the local authority is reliable and may be adhered to. However, it is admitted before this Court that none of these four petitioners have ever approached the Director of Primary Education with a request that for the purpose of admission for the PTC Course, the date of birth in their case as certified by the local authority may be considered so as to determine their age requirement for admission to the PTC Course. May be that they have applied for the course of PTC, but that

application which has been made for admission to the PTC Course is not an application addressed to the Director of Primary Education on the basis of the letter dated 19th June 1990 for the purpose of determining their age requirement as per the certificate issued by the local authority.

5. In the facts and circumstances of this case, it is directed that should any of the four petitioners or all the four petitioners move application to the Director of Primary Education along with the certificates issued by the local authority with the request that their date of birth as mentioned in the certificate issued by the local authority be adhered to instead of the date of birth as mentioned in the academic record and the Director of Primary Education finds that this letter dated 19th June 1990 is still in force and the same has not been superseded by any subsequent order or circular of the Government and in case the Director of Primary Education feels satisfied that the petitioners have a genuine case so as to get their case considered with reference to age requirements on the basis of the date of birth as certified by the local authority, the Director of Primary Education may pass appropriate orders in this regard for the purpose of their eligibility or otherwise in the matter of the requirement of age for the purpose of admission to the PTC Course and subject to such decision of the Director of Primary Education, their candidature for admission to the PTC Course shall be considered in accordance with their merit. In case the petitioners move such application before the Director of Primary Education on or before 24th August 1999, the Director of Primary Education shall consider the same and shall pass appropriate orders thereon within a period of a week's time thereafter and subject to the orders passed by the Director, their cases shall be considered. It will be the duty of the petitioners to enclose the certified copy of this order as also the copy of the letter dated 19th June 1990 sent by the Section Officer of the Education Department to the Director of Primary Education along with their application.

6. All these four Special Civil Applications are partly allowed in terms as aforesaid and the Rule is also made absolute to the extent as above. Direct service is permitted.

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